

LEGISLATIVE MINUTES

MARLBORO TOWNSHIP COUNCIL MEETING

APRIL 10, 2003

The Marlboro Township Council held a regularly scheduled Council Meeting on April 10, 2003 at 8:00 P.M. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey.

Council President Karcher opened the meeting and announced that pursuant to the provisions of the Open Public Meetings Act, notice of this regular meeting of the Township Council of the Township of Marlboro was faxed to the Asbury Park Press, the Star Ledger and News Transcript on December 13, 2002; mailed to the Board of Education Office; posted on the Bulletin Board of the Municipal Building and filed in the office of the Municipal Clerk.

The Clerk called the Roll.

PRESENT: Councilman Denkensohn, Councilman Kovalski,
Council Vice President Mione, Councilwoman Singer
and Council President Karcher.

Also present were: Mayor Scannapieco, Township
Attorney Jonathan Williams, Ronald H. Gordon, Esq.,
Business Administrator Chris Marion, Municipal Clerk
Alida DeGaeta, and Deputy Clerk Deborah Usalowicz.

The following Resolution # 2003-95 (Budget To Be Read by Title) was introduced by reference, offered by Councilman Kovalski, seconded by Councilwoman Singer and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2003-95

WHEREAS, N.J.A. 40A: 4-8 provides that the budget be read by title only at the time of the Public Hearing if a resolution is adopted by not less than a majority of the full governing body, providing that at least one week prior to the date of hearing a complete copy of the approved budget as advertised has been posted

in Town Hall and copies have been made available by the Clerk to persons requiring them; and

WHEREAS, these two conditions have been met;

NOW, THEREFORE, BE IT RESOLVED that the budget shall be read by title only.

Council President Karcher opened the Public Hearing on the 2003 Municipal Budget. As there was no one else who wished to speak, the public hearing was closed.

Council President Karcher opened the Public Hearing on Ordinance # 2003-4 (Amending Bond Ord. #2003-17 Hospital Acquisition Feasibility). After the Public Hearing was held, the following Resolution # 2003-96 /Ord. # 2003-4 was introduced by reference, offered by Councilwoman Singer, seconded by Councilman Kovalski and passed on a roll call vote of 5 - 0.

RESOLUTION # 2003-96

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2003-4

BOND ORDINANCE AMENDING BOND ORDINANCE
NUMBER 2002-17 WITH RESPECT TO VARIOUS
CAPITAL IMPROVEMENTS FINALLY ADOPTED BY
THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF
MARLBORO, NEW JERSEY ON JUNE 13, 2002

which was introduced on March 27, 2003, public hearing held April 10, 2003, be adopted on second and final reading this 10th day of April, 2003.

BE IT FURTHER RESOLVED that notice of the adoption of this ordinance shall be advertised according to law.

ORDINANCE # 2003-4

BOND ORDINANCE AMENDING BOND ORDINANCE NUMBER
2002-17 WITH RESPECT TO VARIOUS CAPITAL
IMPROVEMENTS FINALLY ADOPTED BY THE TOWNSHIP

COUNCIL OF THE TOWNSHIP OF MARLBORO, NEW JERSEY
ON JUNE 13, 2002

BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY (not less than two-thirds of all the members thereof affirmatively concurring), AS FOLLOWS:

Section 1. The Bond Ordinance of the Township Council of the Township of Marlboro, in the County of Monmouth, New Jersey (the "Township") entitled "BOND ORDINANCE PROVIDING AN APPROPRIATION OF \$2,988,000 FOR VARIOUS IMPROVEMENTS FOR AND BY THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY AND AUTHORIZING THE ISSUANCE OF \$2,843,800 BONDS OR NOTES OF THE TOWNSHIP FOR FINANCING PART OF THE APPROPRIATION." finally adopted on June 13, 2002 (the "Ordinance") is hereby incorporated by reference in its entirety.

Section 2. (a) Clause (b) under the subheading "Administrative Department Acquisitions" of Section 3(a) of the Ordinance is hereby amended in its entirety as follows:

"(b) Feasibility Study and Implementation Plan
for Marlboro
State Hospital.
\$175,000 \$166,350"

(b) The Ordinance is further amended as follows: (i) all references in Sections 1, 2, 3, 6(c) and 9 in the Ordinance to "\$2,988,000" and "\$2,843,800" are hereby deleted and substituting in lieu therefor "\$3,113,000" and "\$2,962,550", respectively, (ii) the reference in Section 1 in the Ordinance to "\$144,200" is hereby deleted and substituting in lieu therefor "\$150,450", (iii) the reference in Section 6(b) of the Ordinance to "17.84 years" is hereby deleted and substituting in lieu therefor "17.72 years" and (iv) the reference in section 6(d) in the Ordinance to "\$450,000" is hereby deleted and substituting in lieu therefor "\$575,000."

Section 3. The capital budget of the Township is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. The resolutions in the form promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the

Director of the Division of Local Government Services is on file with the Clerk and is available there for public inspection.

Section 4. This Section 4 constitutes a declaration of official intent under Treasury Regulation Section 1.150-2. The Township reasonably expects to pay expenditures with respect to the Improvements prior to the date that the Township incurs debt obligations under this Bond Ordinance. The Township reasonably expects to reimburse such expenditures with the proceeds of debt to be incurred by the Township under this Bond Ordinance. The maximum principal amount of debt expected to be issued for payment of the costs of the Improvements is \$2,962,550.

Section 5. All other provisions of the Ordinance shall remain unchanged.

Section 6. This amendatory bond ordinance shall take effect twenty days after the first publication thereof after final adoption as provided by Local Bond Law.

The following Resolution # 2003-97/Ordinance # 2003-5 (Amending Bond Ord. #2000-28 - Blossom Heights) was introduced by reference, offered by Councilman Denkensohn, seconded by Councilman Kovalski and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2003-97

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2003-5

BOND ORDINANCE AMENDING BOND ORDINANCE
NUMBER 2000-28 WITH RESPECT TO VARIOUS
CAPITAL IMPROVEMENTS FINALLY ADOPTED BY
THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF
MARLBORO, NEW JERSEY ON OCTOBER 12, 2000

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on April 24, 2003 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2003-5

BOND ORDINANCE AMENDING BOND ORDINANCE NUMBER 2000-
28 WITH RESPECT TO VARIOUS CAPITAL IMPROVEMENTS
FINALLY ADOPTED BY THE TOWNSHIP COUNCIL OF THE
TOWNSHIP OF MARLBORO, NEW JERSEY ON OCTOBER 12, 2000

BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY (not less than two-thirds of all the members thereof affirmatively concurring), AS FOLLOWS:

Section 1. The Bond Ordinance of the Township Council of the Township of Marlboro, in the County of Monmouth, New Jersey (the "Township") entitled "BOND ORDINANCE PROVIDING AN APPROPRIATION OF \$2,713,500 FOR VARIOUS IMPROVEMENTS FOR AND BY THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY AND AUTHORIZING THE ISSUANCE OF \$2,577,825 BONDS OR NOTES OF THE TOWNSHIP FOR FINANCING PART OF THE APPROPRIATION" finally adopted on October 12, 2000 (the "Ordinance") is hereby incorporated by reference in its entirety.

Section 2. Clause (a) under the subheading "Community Development Acquisition and Improvements" of Section 3(a) of the Ordinance is hereby amended in its entirety as follows:

"(a) Improvements to Sewer System at Blossom
Heights

\$800,000 \$475,000 40"

(b) The Ordinance is further amended as follows:

(i) all references in Sections 1 and 3 in the Ordinance to "\$2,713,500" is hereby deleted and substituting in lieu therefor "\$3,013,500."

Section 3. The capital budget of the Township is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. The resolutions in the form promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director of the Division of Local Government Services is on file with the Clerk and is available there for public inspection.

Section 4. All other provisions of the Ordinance shall remain unchanged.

Section 5. This amendatory bond ordinance shall take effect twenty days after the first publication thereof after final adoption as provided by Local Bond Law.

The following Resolution # 2003-98 (Emergency Temporary Appropriation) was introduced by reference, offered by Councilwoman Singer, seconded by Council Vice President Mione and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2003-98

EMERGENCY TEMPORARY RESOLUTION
PRIOR TO ADOPTION OF THE BUDGET

WHEREAS, an emergent condition has arisen with respect to appropriation balances remaining in many of the CY 2001 temporary budget appropriations due to delays in the CY 2003 budget process; and

WHEREAS, N.J.S.A. 40A:4-20 provides for the creation of emergency temporary appropriations for the purposes above mentioned; and

WHEREAS, the total emergency temporary resolutions adopted in the year CY 2003 pursuant to the provisions of N.J.C.A. 40A 4-20 (Chapter 96, P.L.1951 as amended) including this resolution total \$14,382,846.02 - Current;

NOW THEREFORE, BE IT RESOLVED, that in accordance with the provisions of N.J.S.A. 40A:4-20:

1. An emergency temporary appropriation be and the same is hereby made for each of the accounts listed on the attached.
2. That each said emergency temporary appropriation has been provided for in the CY 2003 budget under the same title as appropriated above.
3. That one certified copy of this resolution be filed with the Director of Local Government Services.

The following Resolution # 2003-99 (Award of Contract - Detention/Retention Basin Maintenance) was introduced by reference,

offered by Councilman Kovalski, seconded by Councilman Denkensohn and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2003-99

RESOLUTION AWARDING BID PROVIDING
DETENTION/RETENTION BASIN MAINTENANCE
SERVICES

WHEREAS, the Township of Marlboro has authorized the acceptance of bids to provide for detention/retention basin maintenance services, and on March 18, 2003, received sealed bids therefore; and

WHEREAS, the qualified low bid received was that of Greenleaf Landscape Systems & Services, Inc., 4 Catherine Street, Red Bank, New Jersey 07701; and

WHEREAS, Administration and the Division of Public Works have reviewed all bids received and recommended that the lowest qualified bid be awarded; and

WHEREAS, the Township Council finds that it would be in the best interest of the Township to award the low bid to provide detention/retention basin maintenance services, for a period not to exceed one (1) year, unless a one (1) year extension is granted in accordance with specifications; and

WHEREAS, the Chief Financial Officer of the Township has certified that sufficient funds are available to pay the cost of the aforesaid contract.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Marlboro that the appropriate Township officials be and hereby are authorized to execute an agreement between the Township of Marlboro and Greenleaf Landscape Systems & Services, Inc., 4 Catherine Street, Red Bank, New Jersey 07701, for the provision of detention/retention basin maintenance services in the amounts as set forth in the bid proposal submitted by Greenleaf Landscape Systems & Services, Inc., attached hereto and on file with the Township.

BE IT FURTHER RESOLVED that a certified copy of this Resolution shall be provided to each of the following:

- a. Greenleaf Landscape Systems & Services, Inc.
- b. Township Business Administrator
- c. Chief Financial Officer

- d. Township Attorney
- e. Township Engineer
- f. Superintendent of Public Works

The following Resolution # 2003-100 (Extension of Contract - Uniforms) was introduced by reference, offered by Councilman Kovalski, seconded by Council Vice President Mione and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2003-100

RESOLUTION EXTENDING AGREEMENT WITH TOP HAT UNIFORM RENTAL, INC. FOR
THE PROVISION OF UNIFORMS FOR THE MARLBORO TOWNSHIP
DIVISION OF PUBLIC WORKS

WHEREAS, on September 12, 2002, the Township of Marlboro awarded a agreement to Top Hat Uniform Rental, Inc. of Long Branch, New Jersey in the amount of \$26,775.00 for the provision of uniforms for the Marlboro Township Division of Public Works; and

WHEREAS, the Township Council finds that it would be in the best interest of the Township to extend the current Agreement with Top Hat Uniform Rental, Inc. for the provision of the aforesaid services, in accordance with the terms thereof, for an additional period of one (1) year, for an additional amount of \$26,775.00.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the appropriate Township officials be and hereby are authorized to extend the Agreement between the Township of Marlboro and Top Hat Uniform Rental, Inc., of Long Branch, New Jersey, for the provision of uniforms for the Marlboro Township Division of Public Works, for an additional one (1) year period and for the amount of \$26,775.00, in accordance with the terms of the existing Agreement on file with the Township.

BE IT FURTHER RESOLVED that the Chief Financial Officer is directed to file a Certificate of Availability of sufficient funds for this Agreement and to attach same to this Resolution.

BE IT FURTHER RFSOLVED that a certified copy of this Resolution shall be provided to each of the following:

- a. Top Hat Uniform Rental, Inc.
- b. Township Administrator
- c. Superintendent of Public Works
- d. Chief Financial Officer
- e. Acting Township Attorney

The following Resolution # 2003-101 (Setting Special Meeting - Budget - May 1, 2003 - 7:30PM) was introduced by reference, offered by Councilman Kovalski, seconded by Councilman Denkensohn and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2003-101

BE IT RESOLVED by the Township Council of the Township of Marlboro that "Special" Council Meetings will be held on the following date at 7:30PM at the Marlboro Municipal Complex (Caucus Room), 1979 Township Drive, Marlboro, N.J. 07746:

May 1, 2003

The purpose of this special meeting is to hold budget discussions. Citizen's Voice will be limited to 15 minutes. It is anticipated that no action will be taken. Personnel and litigation matters will be discussed in closed session.

At 9:30 PM, Councilman Kovalski moved that the meeting go into executive session for reason of discussing litigation. This was seconded by Council President Karcher, and as there was no objection, the Clerk was asked to cast one ballot. Recess was called and the closed session commenced at 9:50 PM.

RESOLUTION # 2003-102

WHEREAS, it is determined by the governing body of the Township of Marlboro that it is necessary on the 10th day of April, 2003 to go into executive session for the purpose of discussing those items that are particularly exempted from the Open Public Meetings Act, namely anticipated litigation, acquisition of property and contract negotiations.

BE IT FURTHER RESOLVED that the governing body shall adjourn to executive session for the purpose of discussing said aforementioned items and that such executive session should take approximately 30 minutes. Those items discussed in executive session shall remain confidential until such time as confidentiality is no longer required. Action may be taken following the executive session.

At 10:25 PM, Councilman Denkensohn moved that the meeting be opened. This was seconded by Councilman Kovalski, and as there was no objection, the Clerk was asked to cast one ballot.

The following Resolution # 2003-103 (Authorizing Negotiations for Contract to Purchase Brandigon Property - Block 148, Lot 30 & 30Q) was introduced by reference, offered by Councilman Kovalski, seconded by Councilman Denkensohn and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2003-103

A RESOLUTION AUTHORIZING THE TOWNSHIP OF MARLBORO TO ENTER INTO NEGOTIATIONS FOR A CONTRACT OF SALE TO PURCHASE CERTAIN REAL PROPERTY KNOWN AND DESIGNATED AS BLOCK 148, LOTS 30 AND 30Q ON THE MARLBORO TOWNSHIP TAX MAP - BRANDIGON (APPROXIMATELY 20.27 ACRES)

WHEREAS, the Mayor and Township Council of the Township of Marlboro are committed in their efforts to acquire and maintain vacant lands for open space, recreation, conservation, historic and/or farmland purposes; and

WHEREAS, this commitment is consistent with the wishes of the voters of the Township of Marlboro, as evidenced by the overwhelming support received at the polls for the establishment of a Municipal Open Space, Recreation and Farmland and Historic Preservation Trust Fund, and for the tax levy associated therewith; and

WHEREAS, the principles behind the Township's efforts in preserving open space are set forth in Chapter 98 of the Code of the Township of Marlboro, wherein the Township's Farmland, Historic and Open Space Committee was established; and

WHEREAS, the Farmland, Historic and Open Space Committee has recommended that the Township Council consider purchasing certain real properties known and designated as Block 148, Lots 30 and 30Q, on the Marlboro Township Tax Map (hereinafter referred to as the "Property") for open space, recreational and historic purposes; and

WHEREAS, the Property, which is under the record ownership of members of the Brandigon family, consists of approximately 20.27 acres of land; and

WHEREAS, a negotiating committee appointed by the Township Council, consisting of the Mayor, the Acting Township Attorney, the Council President, the Chairman of the Farmland, Historic and Open Space Committee and consultant, Schoor DePalma, has met several

times with representatives of the Brandigon family concerning the proposed acquisition of the Property by the Township, and subject to certain terms and conditions to be negotiated and to be contained within a written Memorandum of Agreement governing such purchase; and

WHEREAS, the Memorandum of Agreement will be specifically conditioned upon the adoption of an authorizing Ordinance by the Township Council of the Township of Marlboro, pursuant to the New Jersey Local Lands and Buildings Law, N.J.S.A. 40A:12-1, et seq., as well as the adoption of a Bond Ordinance by the Township Council in order to fund all or part of the acquisition (and related costs); and

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Mayor and Township Council of the Township of Marlboro, in the County of Monmouth and State of New Jersey, as follows:

1. That the Township is authorized to enter into negotiations on the terms of a Memorandum of Agreement with the Brandigon family to purchase the property known as Block 148, Lots 30 and 30Q on the Marlboro Township Tax Map (the "Property").
2. That the actual purchase of the Property shall be specifically conditioned upon the adoption of an authorizing Ordinance by the Township Council of the Township of Marlboro, pursuant to the New Jersey Local Lands and Building Law, N.J.S.A. 40A:12-1, et. seq., as well as the adoption of a Bond Ordinance by the Township Council in order to fund all or part of the acquisition (and related costs), and any other terms and conditions contained within the fully-executed Agreement.
3. That a certified copy of this Resolution shall be provided to each of the following:
 - a. Steven P. Sukel, Esq.
100 Campus Drive
Morganville, NJ 07751
 - b. Mayor Matthew V. Scannapieco
 - c. Council President Ellen Karcher
 - d. Stephen Dick, Chairman of the Farmland, Historic and Open Space Committee
 - e. Members of the Farmland, Historic and Open Space Committee

- f. John S. Mullan, Schoor DePalma
- g. Jonathan Williams, Esq., Acting Township Attorney

The following Resolution # 2003-104 (Waiver of Attorney/Client Privilege) was introduced by reference, offered by Councilman Kovalski, seconded by Councilman Denkensohn and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2003-104

RESOLUTION AUTHORIZING THE RELEASE OF DOCUMENTS

WHEREAS, the Attorney General of the State of New Jersey has issued Subpoenas to the current Law Firm and the prior Law Firm of the Township of Marlboro's Director of Law, that is Dilworth Paxson, LLP., McLaughlin, Bennett, Gelson and Cramer, and Glenn R. Stern, Esq., requiring the production of documents relating to work performed for the Township of Marlboro from January 1, 2000 to the present; and

WHEREAS, the Township of Marlboro wishes to cooperate to the fullest extent possible with the Attorney General of the State of New Jersey in its investigation; and

WHEREAS, the Township of Marlboro may have some privilege(s) as to some of the documents requested; and

WHEREAS, the Township of Marlboro wishes to waive its privilege(s) as to the documents requested in the Subpoena of the Attorney General in the State of New Jersey dated March 14, 2003 to Dilworth Paxson, LLP., Glenn R. Stern, Esq., and McLaughlin, Bennett, Gelson and Cramer in order to insure that the investigation is as complete as possible.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that it hereby waives its privilege(s) as to the documents requested in this subpoena dated March 14, 2003 from the Attorney General of the State of New Jersey to Dilworth Paxson, LLP., Glenn R. Stern, Esq., and McLaughlin, Bennett, Gelson and Cramer.

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Dilworth Paxson, LLP.
- b. McLaughlin, Bennett, Gelson, & Cramer

- c. Glenn R. Stern, Esq.
- d. Township Administrator
- e. Township Attorney

At 10:38PM, Councilman Kovalski moved that the meeting be adjourned. This was seconded by Councilman Denkensohn, and as there was no objection, the Clerk was asked to cast one ballot.

MINUTES APPROVED: May 22, 2003

OFFERED BY: Singer AYES: 5

SECONDED BY: Mione NAYS: 0

ALIDA DE GAETA
MUNICIPAL CLERK

ELLEN KARCHER
COUNCIL PRESIDENT